

**IN THE DISTRICT COURT IN AND FOR PITTSBURG COUNTY
STATE OF OKLAHOMA**

JUL 30 2019

STATE OF OKLAHOMA,

BY CINDY LEDFORD
DEPUTY

PLAINTIFF,

CASE NO. M1-19-20

**IN RE: OPEN RECORDS REQUEST FROM McALESTER NEWS CAPITAL AND
ATTORNEY BRECKEN WAGNER**

STATE'S MOTION TO QUASH OPEN RECORDS REQUEST

COMES NOW Charles B. "Chuck" Sullivan, the duly qualified and acting District Attorney for District No. 18 of the State of Oklahoma, the Plaintiff and moves this Court to quash Open Records Requests made by certain media outlets and local attorney, Brecken Wagner to obtain video footage recorded on body and dashboard cameras during the investigation and incident involving Oklahoma Highway Patrol Officers as well as McAlester Police Department (MPD) Officer Chuck Sutterfield and other MPD Officers and possible suspect Mark Anthony Schoggins on or about July 18, 2019. In support of its' Motion, the State would show as follows:

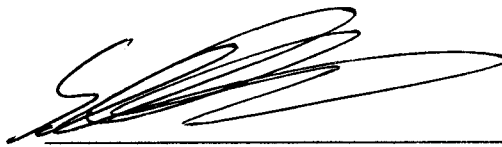
1. The State concedes that the recordings in question are subject to the provisions of 51 O.S. § 24(A)(8) and should be discoverable to the public;
2. However, paragraph (A)(10)(b) of that section states that the law enforcement agency maintaining the records may redact or obscure specific portions of the recording that, among other reasons, depict the death of a person or a dead body, depict acts of severe violence resulting in great bodily injury, or include information that would materially compromise an ongoing criminal investigation or prosecution.

3. The footage contained on the(se) camera(s) show the struggle between Mark Anthony Schoggins and the Law Enforcement Officers and ultimately the Officers firing upon suspect Schoggins and ultimately his death.
4. The Statute allows for redacting the portions in question and providing the redacted version to the public. However, the State has conferred with the McAlester Police Department and has determined that the entirety of the video(s) is redactable under the provisions of the Statute. The State is therefore, in the interest of justice, Moving this Honorable Court to issue an Order prohibiting the release of any video footage recorded by any of the officers who responded to the scene while investigation (which is still ongoing) and prosecution of this case are active.
5. The standard to be applied by the District Court when considering whether to grant a Motion or to grant an extension of time is enumerated in 51 O.S. § 24A.8(A)(10)(b)(12)(a). Such requests may be made “on the grounds that release of the recording will materially compromise an ongoing criminal investigation or criminal prosecution or on the grounds that release of the recording will compromise the right of an accused to a fair trial that has yet to begin.”
6. The State believes releasing this footage to the public prior to trial will materially compromise criminal prosecution, and equally concerning is the effect it would have on any Defendant’s right to a fair trial.
7. No attorney has been appointed or appeared on behalf of Mr. Schoggins or his estate in this matter at this time, however, the State believes it is in the interest of justice to any possible Defendant, as well as advantageous to Mr. Schoggins, to raise this issue and prevent prejudicing potential jury pools by allowing this footage to be released at this time.

8. The State concedes that the Court cannot grant an indefinite prohibitive Order, and State will follow the appropriate guidelines to seek extensions of time when required. Nonetheless, the State Moves this Honorable Court to grant this Motion to Quash and issue an Order prohibiting McAlester Police Department and the Oklahoma Highway Patrol from releasing the video footage from responding officers' body and dashboard cameras pursuant to the Open Records Request, or at least to set a hearing on the matter.

WHEREFORE, premises considered, State prays this Honorable Court will grant the Stat's Motion to Quash the Open Records Request(s) made in connection with this matter.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Charles B. Sullivan', written over a horizontal line.

Charles B. "Chuck" Sullivan
District Attorney, District 18
109 E. Carl Albert Parkway
McAlester, OK 74501